

APPEAL NO. 040511  
FILED APRIL 15, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 3, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_; that on \_\_\_\_\_, the claimant did not sustain a compensable injury to his cervical spine, thoracic spine, lumbar spine, left shoulder, and right knee; and that the claimant did not have disability. The claimant appealed the above determinations on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

In the instant case, the claimant had the burden to prove that he sustained a compensable injury, and if so, the extent of that injury. We note that the 1989 Act requires the existence of a compensable injury as a prerequisite of a finding of disability. Section 401.011(16). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer noted in his Statement of the Evidence that he did not find the claimant's evidence to be persuasive, and he listed his reasons for reaching that determination. The hearing officer is not bound by medical evidence which is dependent on the history given by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence in this case, we conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

---

Daniel R. Barry  
Appeals Judge

CONCUR:

---

Robert W. Potts  
Appeals Judge

---

Edward Vilano  
Appeals Judge